

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Drywall Tapers and Pointers of Greater New York)	
Local Union 1974, Affiliated with International)	Index No.: 20-CV-946
Union of Allied Painters and Allied Trades, AFL-CIO,)	
)	
)	<u>PETITION TO</u>
Petitioner,)	<u>CONFIRM</u>
)	<u>ARBITRATION AWARD</u>
-against-)	<u>AND SUPPORTING</u>
)	<u>MEMORANDUM OF LAW</u>
CCC Custom Carpentry Corp.,)	
)	
Respondent.)	

Petitioner, Drywall Tapers and Pointers of Greater New York Local Union 1974, Affiliated with International Union of Allied Painters and Allied Trades, AFL-CIO, (the “Union”) by its attorneys Barnes, Iaccarino & Shepherd LLP, petition this Court for an Order and Judgment confirming the Decision and Award of the Joint Trade Board of the Drywall Tapers Industry (the “Joint Trade Board”), dated October 28, 2019.

JURISDICTION AND VENUE

1. This is a petition, pursuant to § 9 of the Federal Arbitration Act (“FAA” or § 9), 9 U.S.C. § 9, and § 301 of the Labor Management Relations Act (“LMRA” or “§ 301”), 29 U.S.C. § 185, to confirm the October 28, 2019 Decision and Award of the Joint Trade Board (the “Award”). (See Declaration of Lauren M. Kugielska (“Kugielska Decl.”), Exhibit “A.”) This Court has jurisdiction pursuant to § 301. Venue properly lies in this District under LMRA § 301 and FAA § 9, and 28 U.S.C. Section 1391 (b).

PARTIES

2. Petitioner Union is a labor organization within the meaning of Section 301 of the Taft-Hartley Act (29 U.S.C. Section 185) which represents employees in an industry affecting

commerce as defined in Section 501 of the Taft-Hartley Act (29 U.S.C. Section 142), and Section 3(4) of ERISA (29 U.S.C. Section 1002(4)), and as further defined in Section 12 of the General Associations Law of the State of New York. The Union's principal office is located at 45 West 14th Street, New York, NY 10011.

3. Respondent, CCC Custom Carpentry Corp. ("CCC" or the "Employer") is upon information and belief a corporation duly organized and existing under the laws of New York State with its principal office and place of business located at 50 Bethpage Road, 2nd Floor, Hicksville, New York 11801 and is an employer in an industry affecting commerce within the meaning of Section 301 of the Taft-Hartley Act (29 U.S.C. Section 185).

FINALITY OF THE ARBITRATION AWARD

4. At all relevant times Respondent was a party to a collective bargaining agreement ("CBA") with the Union. (*See* Kugielska Decl., Exhibit "B.")

5. The CBA provides for the submission of disputes to final, binding decisions of the Joint Trade Board. *Id.*, at Article XIV.

6. A dispute arose when CCC failed to submit remittance reports, pursuant to Article XX of the CBA and Article XIII Section 11 Violation 8 of the Trade Agreement between District Council No. 9, International Union of Painters and Allied Trades, AFL-CIO and the Drywall Taping Contractors' Association of Greater New York (the "Trade Agreement").¹ (*See* Kugielska Decl., Exhibit "B," Article XX; Exhibit "C," Article XIII Section 11 Violations 8.)

7. Pursuant to Article XIV of the CBA, the Union filed a Demand for Arbitration with the Union's Joint Trade Board and served the Demand for Arbitration on Respondent. (*See* Kugielska Decl., Exhibit "B," Article XIV & Exhibit "D.")

¹ The Joint Trade Board of the Drywall Tapers Industry utilizes the schedule of penalties set forth in Article XIII Sec. 11 of the Trade Agreement.

8. Thereafter, the Joint Trade Board held a hearing on October 28, 2019 and rendered the October 28, 2019 Award thereafter. (*See* Kugielska Decl., Exhibit “A.”)

9. The said Award provided that Respondent, CCC violated the CBA by failing to submit remittance reports. (*Id.*)

10. The said Award directs Respondent, as a remedy for the aforesaid violations, to make payments-as follows:

(i) CCC shall pay \$14,000.00 in fines to the Joint Trade Board of the Drywall Tapers Industry;

11. The Award was issued on October 28, 2019 and served on Respondent. (See Kugielska Decl., Exhibit “E.”)

12. A demand letter was served on Respondent following its failure to comply with the Award. (*See* Kugielska Decl., Exhibit “F.”)

13. To date, Respondent has failed and refused to comply with the Award. Judgment on the Award is therefore necessary to permit the Union to enforce the Award.

14. Respondent’s failure to pay the total amount set forth in the Award violates the Award.

15. The Award was made in accordance with the terms and provisions of the parties’ written agreement and is in all respects proper.

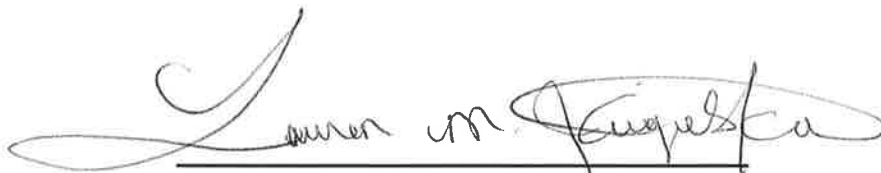
16. The Award has not been vacated, modified, or corrected as prescribed in sections 10 and 11 of the FAA and therefore should be confirmed. *See* 9 U.S.C. §§ 10, 11.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests an Order and Judgment granting the following relief:

- (i) confirming the Arbitration Award of the Joint Trade Board in its entirety;
- (ii) directing CCC to pay \$14,000.00 in fines to the Joint Trade Board of the Drywall Taping Industry;
- (iii) directing judgment to be entered thereon;
- (iv) and for such other and further relief as the Court may deem just and proper.

Dated: Elmsford, New York
February 3, 2020

A handwritten signature in black ink, reading "Lauren M. Kugielska". The signature is fluid and cursive, with a large loop at the end of the last name.

Lauren M. Kugielska, Esq.
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